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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,872	11/28/2006	Alison Helena Goodall	430160.401USPC	5465
500 7590 09/13/2011 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104				
EXAMINER				
TSAY, MARSHA M				
ART UNIT		PAPER NUMBER		
1656				
MAIL DATE		DELIVERY MODE		
09/13/2011		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/574,872

**Applicant(s)**

GOODALL ET AL.

**Examiner**

Marsha Tsay

**Art Unit**

1656

**Period for Reply** -- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 30-60 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☒ Claim(s) 30-60 are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-500)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

Claims 30-60 are pending.

***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 30-48, drawn to an injectable pharmaceutical product comprising an agent which comprises an insoluble carrier bound to a peptide, wherein said product has the properties of claim 1(i), 1(ii), and 1(iii).

Group II, claim(s) claims 49-50, drawn to an injectable pharmaceutical product comprising an agent which comprises the components of claim 49(a), 49(b), and further wherein said product has the properties of claim 49(i), 49(ii), and 49(iii).

Group III, claim(s) 51-52, drawn to an injectable pharmaceutical product comprising the components of claim 51(a), 51(b), and 51(c).

Group IV, claim(s) 53-54, drawn to a method of preparing an injectable pharmaceutical product comprising the steps recited in claim 53.

Group V, claim(s) 55-56, 59-60, drawn to a method of promoting hemostasis or treating thrombocytopenia in an individual, comprising administering to said individual a pharmaceutically effective dosage of an injectable product comprising the components recited in claim 55 and wherein said product has the properties recited in claim 55(i), 55(ii), and 55(iii).

Group VI, claim(s) 57-60, drawn to a method of promoting hemostasis or treating thrombocytopenia in an individual comprising administering to said individual a pharmaceutically effective dosage of an injectable product comprising the components recited in claim 57(a), 57(b), and wherein said product has the properties recited in claim 57(i), 57(ii), and 57(iii).

The groups of inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking Groups I-VI appears to be that they all relate to a peptide that is capable of non-covalent binding to fibrinogen.

However, Taylor et al. (1992 The Journal of Biological Chemistry 267(17): 11729-11733; IDS 11.28.06) teach a peptide (i.e., the peptide GPIIb, 300-312 (G13) can bind non-covalently to fibrinogen.

Therefore, the technical feature linking the inventions of Groups I-VI does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Accordingly, Groups I-VI are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

platelet membrane glycoprotein GPIIb, platelet membrane glycoprotein GPIIIa (claim 32, 50, 56, 58);

SEQ ID NO: 28, SEQ ID NO: 29, SEQ ID NO: 30, SEQ ID NO: 31 (claim 34, 40, 50, 56, 58);

Pro, Sar, Gly, Val (claim 37, 39, 41, 50, 56, 58);

microparticle, protein microparticle, albumin microparticle (claim 44);

removing unbound fibrinogen, formulating the product with a pharmaceutically acceptable carrier or diluent, diluting the product to provide a pharmaceutically acceptable unit dose, sterilizing the product, ensuring product sterility (claim 54);

a patient having a platelet count that is below  $400 \times 10^9/l$ , a patient having a platelet count that is below  $150 \times 10^9/l$ , a patient having a platelet count that is below  $10 \times 10^9/l$ , a patient having an inherited or drug-induced disorder in number or function of platelets, a patient having mechanically damaged platelets, a patient having a failure in bone marrow platelet production (claim 59);

a blood cancer, a cytotoxic chemotherapy, a radiotherapy (claim 60).

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise require all the limitations of an allowed generic claim. Currently, the following claim(s) are generic: claims 32, 34, 37, 39-41, 44, 50, 54, 56, 58-60.

#### REQUIREMENT FOR UNITY OF INVENTION

As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept (“requirement of unity of invention”). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

#### WHEN CLAIMS ARE DIRECTED TO MULTIPLE CATEGORIES OF INVENTIONS

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention or species.

Should applicant traverse on the ground that the inventions have unity of invention (37 CFR 1.475(a)), applicant must provide reasons in support thereof. Applicant may submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. Where such evidence or admission is provided by applicant, if the examiner finds one of the inventions unpatentable over the prior art,

the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim



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will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoiner in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoiner.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marsha Tsay whose telephone number is (571)272-2938. The examiner can normally be reached on M-F, 9:00am-5:00pm E.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha Tsay/  
Examiner, Art Unit 1656

September 12, 2011